

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
-----X  
GLEN CRAIG,

Plaintiff,

v. 16 civ. 5439 (JPO)

UNIVERSAL MUSIC GROUP, INC.,  
KINGSID VENTURES, LTD. and  
ESTATE OF RILEY B. KING,

Defendants.

-----X

VIDEOCONFERENCE DEPOSITION OF  
  
LOUISE LAVERNE TONEY  
  
New York, New York  
  
April 6, 2017

Reported by:

Sara Freund

Job No. 18494

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April 6, 2017  
1:00 p.m.

VIDEOCONFERENCE DEPOSITION OF  
LOUISE LAVERNE TONEY, held at the offices of Loeb  
& Loeb, LLP, 345 Park Avenue, New York, New York,  
before Sara Freund, a Shorthand Reporter and a  
Notary Public of the State of New York.

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APPEARANCES:

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BY: BARRY L. SLOTNICK, ESQ.  
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ALSO PRESENT:  
Glen Craig - Plaintiff

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IT IS HEREBY STIPULATED AND AGREED by and  
between counsel for the respective parties hereto,  
that the filing, sealing, and certification of the  
within deposition shall be and the same are hereby  
waived;

IT IS FURTHER STIPULATED AND AGREED that  
all objections, except as to the form of the  
question, shall be reserved to the times of trial;

IT IS FURTHER STIPULATED AND AGREED that  
the within deposition may be signed before any  
Notary Public with the same force and effect as if  
signed and sworn to before this court.

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LOUISE LAVERNE TONEY, after  
having first been duly sworn by a Notary Public of  
the State of New York, was examined and testified  
as follows:

EXAMINATION BY  
MS. TSYVKIN:

Q. State your name and address for the  
record.

A. My name is Louise LaVerne Toney, and my  
address is 3763 Lone Mesa Drive, Las Vegas,  
Nevada 89147.

Q. Good morning, Ms. Toney. My name is  
Kate Tsyvkin, and I am the plaintiff's attorney.  
The plaintiff in this case is Glen Craig. I'm  
going to be asking you a few questions.

A. Okay.

Q. Thank you for being here, first of all,  
and making time for this. I'm going to go over  
some ground rules before we get started just so  
we're clear how this thing works. I'll take into  
account some lapse of time between when I finish  
speaking and you finish speaking because of the  
Skype or whatever video conferencing magic is at  
work here. I'll try to finish my question, and

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come into Mr. King and to the estate, and there are three different accounts, and depending on who the check is to, to actually deposit that in the appropriate account.

Q. So, they come in for different names. What are the names?

A. One would be King Road Shows; one would be Kingsid Ventures; one would be the Estate of Riley B. King; and the last one is the trust account. So, there are four different accounts.

Q. And can you, for me, differentiate between those four accounts, like what kind of revenue would arrive in the first one you've mentioned, the Road Shows?

A. King Road Shows would be checks that are addressed to King Road Shows, and that could be -- oh, there are so many of them -- it could be checks for 45 cents up to, say, \$100, all these various different entities that do royalties. Sometimes they'll come three or four a week ranging, like I said, from 45 cents up to \$100.

Q. And could you elaborate on what they're for? Because, obviously, it has the words "Road

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royalties by contract. And those checks come at various times, sometimes regularly, sometimes not.

Q. You mentioned "various clubs." Where are the other clubs, if you know?

A. One club is in Memphis; one is in Nashville; another one is in Orlando, Florida. There's one in one of the Indian casinos -- it begins with an M. And also, there are royalties that come from a cruise ship line, because there are clubs on eight cruise ships at the moment, from American -- I'm having a brain fade -- it's American something Cruise Lines, there are eight clubs on those cruise ships right now; so they pay royalties, as well. And that's Kingsid.

Q. What do they pay royalties for?

A. Being able to use Mr. King's name and likeness for the clubs, and that's as per contracts.

Q. You said that's through existing contracts set up with these clubs?

A. Yes.

Q. So, the amounts don't diminish because they continue to use the likeness.

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Shows" in the title, so I would presume it's from touring, but since, unfortunately, Mr. King is no longer --

A. Right. But some of them are from touring. They would be even from old television programs, royalties for that, and over time those royalties decreased; like I said, one was even for 45 cents. So, they just come in to King Road Shows. That's the name that it was put under since its very inception, so they still come to King Road Shows. So, those checks are deposited into King Road Shows. Like old TV shows, like Sanford and Son, everyone knows that happened a long time ago, but the checks still come in, but they get smaller and smaller.

Q. And you've mentioned Kingsid; also, there are checks under that name?

A. Exactly.

Q. What are those for?

A. Kingsid would be royalties from the various clubs bearing Mr. King's name, and they would also come from -- well, mainly the clubs, the club in New York, the various clubs that are owned by Tommy Peters, all of those, all

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A. No, they don't diminish. As the clubs make money, then the estate, Kingsid, makes more money.

Q. You mentioned Tommy Peters?

A. Tommy Peters.

Q. So, Tommy Peters is the owner of the club in New York?

A. No. That's the only one he doesn't own; that's owned by the Ben Susans.

Q. And Tommy Peters owns the rest of them.

A. Yes.

Q. Moving on to the estate of Riley B. King, the checks that come in that are addressed to Riley B. King, what are they for?

A. They can be for royalties from other entities, as well, and any check that comes in with just Mr. King's name on it, I've been instructed to deposit those into the estate account.

Q. Would the royalties from Universal come in under the Estate of Riley B. King?

A. No. They would just have Mr. King's name on it, and then they would be deposited into the estate account.

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Q. Any revenue from Universal coming into any of these other accounts that you've mentioned: Kingsid --

A. No, they would not go into Kingsid.

Q. Anything would go into the Road Shows account?

A. No. Not from Universal, no.

Q. And the royalties that come into the Estate of Riley B. King, are they also pursuant to contracts that exist?

A. No. Just different royalty situations.

Q. Can you elaborate on "royalty situations"?

A. Okay. You're speaking about what would go into Kingsid?

Q. No. We were speaking about the Estate of Riley B. King. So, the kind of royalty checks that go in there, can you just elaborate whether they were pursuant to existing contracts or something else?

A. No. Like, it would be royalties, but royalties from past -- like Sound Exchange, Sound Exchange is a company that collects royalties for musicians in the United States and out, and when

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Q. Can you briefly discuss the trust account, what kind of checks arrive addressed to the trust account?

A. Not many, but I'm trying to think of which ones. I can't really think of one at the time, but there are not many checks that go into the trust account; it's rare. And if I remember correctly, for this situation, whatever I have from memory, nothing that can be looked at or anything like that, correct?

Q. What do you mean? I'm not sure I understand.

A. Well, I have nothing in front of me, so every answer to the question is strictly from memory, correct?

Q. Yes, I'm asking what you remember.

A. At the moment, nothing comes to mind, but I know that there are and there are very few.

Q. So, if you had royalties for any one of Mr. King's albums, they would come into the Estate of Riley B. King, correct, that's the account?

A. They would be put into that account, yes. Because they state which account. They'll

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that check comes, that's put in the estate because it comes in Mr. King's name.

Q. So, there are other kinds of arrangements aside from, say, a record company and Mr. King, like with Sound Exchange?

A. Yes.

Q. Any other kinds of arrangements that exist that aren't included in either existing contracts or some sort of an arrangement with Sound Exchange, can you think of other examples?

A. Other examples would be Gibson Guitar, and that's by contract, too; they have a contract with Mr. King in regards to the Lucille guitar which Mr. King used. So, they pay a certain amount per quarter to Mr. King because they still produce that guitar.

Q. Other examples, if you recall?

A. What I'm thinking of, everything else is due to contracts. Just royalties from television programs and a book that he did, a children's book that he did; there continues to be sales, so he still gets royalties. As I said, it diminishes over time, but he still gets royalties from that kind of thing.

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say "in trust account" or -- because there are a number of accounts. It's not just one with Universal, if that's what you mean.

Q. Well, how many are there with Universal?

A. Oh, God, I'd say maybe five.

Q. And what are they?

A. I'm not sure what you mean, "what are they?"

Q. You said there are five different accounts --

A. Right, they have account numbers; they're numbered.

Q. I guess I'm trying to ask about the organizing principle of why have five accounts instead of one account with Universal?

A. I really can't speak to that, other than there is one that Mr. King owes money to Universal; it's from back advances that he got when he was producing albums and which were very big on giving these advances, so now after he's passed away there is an account saying he owes X amount of money, and whenever money comes to that account they deduct it from what's owed. So,

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Q. Do you ever recall hearing from Plaintiff before this case started; do you ever recall having any interactions with the plaintiff?

A. Yes.

Q. What do you recall?

A. I remember him giving me a phone call.

Q. Do you remember the approximate date of that phone call?

A. I'm thinking more of the year, but he gave me several phone calls. So, it was before Mr. King came off the road, so it had to have been in 2012, 2013.

Q. And how do you know that these are the dates that the plaintiff contacted you? I mean, you gave me a range of two years, 2012 and 2013. How do you know that this was approximately the time?

A. Well, thinking in terms of the time when Mr. King came off the road, which was in October of 2014. So, Mr. King was on the road at that time and everything was normal. So, I'm thinking it had to have been in 2013, I'm thinking probably the latter part of 2013, to my

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himself in that kind of decision-making or choosing a photo or not choosing a photo; that was not Mr. King's way of doing things. So, he did not know who Mr. Craig was or anything about it. Then there was another occasion where I heard from people out on the road, because Mr. Craig showed up trying to seek access to Mr. King on his bus and he was denied access.

Q. Do you remember what that show was?

A. No, no, not at all.

Q. Do you remember where that show was?

A. No.

Q. So, the first you heard from the plaintiff, you say was a phone call?

A. Yes.

Q. And you picked up the phone and spoke to him directly?

A. Yes.

Q. Does the name Robert Turrell ring a bell to you?

A. Yes.

Q. Who is Robert Turrell?

A. Robert Turrell is an employee of the museum in Mississippi.

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best recollection.

Q. And what was the call about, if you recall?

A. Well, he had called me on the first occasion, as far as I can remember, explaining to me in great detail how he had contact with Sid Seidenberg years and years ago something in regards to a photograph, which at that time I didn't have any information about that, and him wanting to get in contact with Mr. King. And so, I gave his message to Mr. King and explained to Mr. King what Mr. Craig had told me, and Mr. King told me he had no idea who he was and what he was talking about. So, as far as I was concerned, that was the end of it. Then there was another call when he was trying to see Mr. King again and he was going through the same information that he had previously given me, and I had asked him why hadn't he gone back to Mr. Seidenberg, who he had originally spoken to, why had he waited so long. And I don't recall his answer to that. Because I told him Mr. King did not know who he was or anything about the situation, because that was not how it all worked. Mr. King did not involve

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Q. This is the B.B. King Museum?

A. Yes.

Q. How well do you know Mr. Turrell?

A. I know him quite well; I known him for several years. And I see him every year when we go down to the festivities on the grounds of the museum, in June.

Q. Do you recall Mr. Turrell telling you anything about the plaintiff and trying to contact you?

A. He may well have. I don't recall, but he may well have. It wouldn't have been unusual.

Q. Do you recall calling up the plaintiff yourself to return a phone message or a phone call that the plaintiff had left for you?

A. I may well have.

Q. Do you recall getting any e-mails from the plaintiff?

A. Yes.

Q. Do you remember sending e-mails to the plaintiff?

A. No.

Q. So, communications with plaintiff on your behalf, were they handled -- how many

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Q. So, you might have seen some, but you didn't really notice them because they were like the same old, same old thing.

MR. SLOTNICK: Objection to form. Lack of foundation. You can answer it, if you can.

A. I wouldn't say necessarily that I didn't pay attention to it. I gave it its proper attention, and then passed on the information to the attorneys and moved on to what needs to be done.

Q. I definitely understand what you're saying in regards to the letter, that's what you did with the letter.

A. Yes.

Q. But I'm asking after you turned over the letter to your attorneys, later on, if you had come across newly released or re-released album art, so cover art for any albums following that, you didn't really notice it, as you said.

MR. SLOTNICK: Objection. Lack of foundation, assuming facts not in evidence. You can answer if you can answer.

A. If the art was new or not new, no, I

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don't remember.

A. Okay.

Q. Around the same time, which is September 16, 2015, Universal published a limited edition four-CD set called "Ladies and Gentlemen, Mr. B.B. King." So, this would have been a four-CD set.

A. Okay.

Q. Do you recall seeing the cover of that?

MR. SLOTNICK: Objection as to the characterization. You can answer.

A. I remember seeing that you're speaking of.

Q. Do you recall how you got it, how you came to see it?

A. How I got it would have been through Universal, through the mail.

Q. So, this is one of those packages that they would send to you, right?

A. Yes.

Q. And then a little bit later, November 11, 2015, Universal published a two-LP set entitled "Ladies and Gentlemen, Mr. B.B. King."

A. Mm-hmm.

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really didn't. It was outside of my realm. Whatever universal did, I was assured, I was thinking they had proper permission to do whatever they were doing, and I didn't see it as being a part of what's going on now, no.

Q. Do you specifically recall seeing any CD covers or any kind of cover art or any of the three photographs that are at the center of this litigation on B.B. King's albums; do you recall seeing them after getting this letter?

A. Do I recall seeing this cover art after I got -- when you say "this letter," you're still talking about the letter on the front of the packet?

Q. Correct, the September 18th, 2014.

A. Okay. I can't say whether I did or I didn't. Like I said, it was just in the normal flow of doing business, just move on. But these pictures, I've only seen copies of these pictures. I never saw any original photographs, no.

Q. I'm going to ask you about a couple of albums, maybe it will jog your memory. If it does, let me know; if it doesn't, just say you

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Q. I'm not sure whether this is one of the times whether it's an LP or a CD, I have it in my records as an LP, but I don't know if you have a recollection that's different. Do you recall seeing the cover for that?

MR. SLOTNICK: Objection as to form.

Assumes facts not in evidence. You can answer if you can answer.

A. I did see it.

Q. Around the same time, again, September of 2015, Universal published a CD "Live in Japan, Limited Edition." Any recollection if you saw that particular CD?

A. No.

MR. SLOTNICK: Objection. Assumes facts not in evidence.

Q. So, you never saw that particular CD; it didn't arrive to you by mail?

A. No.

Q. Do you remember any CD that was just a single CD called, "B.B. King Live in Japan," that was released around September 25th of 2015?

MR. SLOTNICK: Objection. Assumes facts not in evidence.

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